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April 9, 2007

Magistrate Judge Mary Pat Thyng
United States District Court
844 King Street
Wilmington, DE 19801

RE: Paul v. Deloitte & Touche, et.al.
C.A. No.: 06-225***

Dear Judge Thyng:

This matter was reassigned to your jurisdiction based upon a stipulation filed by the parties on February 2, 2007 (Dk 38) with an Order being entered on February 5, 2007.

Prior to Judge Jordan leaving this Court's bench for the Third Circuit Court of Appeals, he entered a scheduling order on November 2, 2006 (Dk 29) at that time, were pending two motions to dismiss by the defendant, for the original complaint filed on April 6, 2006 (Dk 1) and an amended complaint filed on May 25, 2006 (Dk 7). A second amended complaint was filed asserting diversity jurisdiction, which has now been withdrawn. Those motions were fully briefed before Judge Jordan left the bench. The amended complaint alleges Federal Age Discrimination (Count I), State Age Discrimination (Count II), Breach of the Covenant of Good Faith and Fair Dealing under State law (Count III), Breach of Contract (Count IV) Age Discrimination under Massachusetts Statute (Count V). Of those counts, the defendant has moved to dismiss Counts II-V. No objection to this Court's jurisdiction over Count I has been made by the defendant.

Both parties have written to Your Honor on January 16, 2007 and January 17, 2007 (Dk 35 & 36) with status letters.

I write to Your Honor concerning the present status of the case, now that Your Honor has assumed jurisdiction. As of this date, approximately one year after the original complaint was filed, the defendant has still not filed an answer. In addition, despite the plaintiff having filed discovery in this matter on January 3, 2007 (Dk 34), after Judge Jordan entered the scheduling order on November 2, 2006, the defendant has not responded to such discovery because of the automatic stay entered upon Judge Jordan's elevation of December 6, 2006 (Dk 32).

Apparently the defendant still does not recognize any obligation to file either an answer, or respond to outstanding discovery, presumably because the original scheduling order by Judge Jordan was stayed, and no scheduling order has been entered by Your Honor, after being given jurisdiction in this matter.

Thus, I am writing to request a scheduling conference with the Court in order that the undisputed Count in this matter, alleging age discrimination ("ADEA") move forward while the Court considers the pending motions to dismiss Counts II and III.

Thank you for Your Honor's consideration.

Respectfully,

/s/ Gary W. Aber

Gary W. Aber

GWA/mac

cc: Sheldon N. Sandler, Esquire